

N.D.A.G. Letter to Tokach (June 23, 1989)

June 23, 1989

Honorable Dick Tokach
District 53
House of Representatives
HCR 2, Box 48
St. Anthony, ND 58566

Dear Representative Tokach:

Thank you for your May 26, 1989, letter concerning section 9 of House Bill No. 1494.

Section 9 of House Bill No. 1494 authorizes the board of county park commissioners to levy an annual tax for the purpose of acquiring real estate as a site for public parks, the construction of recreational facilities, the renovation and repair of recreational facilities, and the furnishing of recreational facilities. Where the county park commissioners levy a tax pursuant to this section, that levy may be referred to the voters; the law requires that the question of whether the levy is to be discontinued be submitted to the qualified electors at the next regular election if 25% of the qualified electors voting in the last regular county election request by petition that the issue be presented to the electors.

Your letter asks whether a petition process is available to levy the tax where the board of county park commissioners fails to levy the tax. The statutory language contained within section 9 does not authorize the initial levy of taxes to occur by petition. Instead, only the board of county park commissioners may initially levy the taxes provided for within section 9. After the board has initiated such a levy, the question of levy discontinuance, or of subsequent relieving of the tax, may be submitted upon petition of 25% of the electors.

In answer to your specific question, therefore the voters may not place the issue of the initial levy of taxes authorized by section 9 of House Bill No. 1494 on the election ballot by use of a petition.

Sincerely,

Nicholas J. Spaeth

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